

CHAMBER ACTION

1 The Juvenile Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to drug court programs; amending s.
7 39.001, F.S.; providing additional legislative purposes
8 and intent with respect to the treatment of substance
9 abuse, including the use of the drug court program model;
10 authorizing the court to require certain persons to
11 undergo treatment following adjudication; providing that
12 the court is not precluded from ordering drug testing;
13 amending ss. 39.402 and 39.407, F.S.; authorizing the
14 court to order specified persons to submit to a substance
15 abuse assessment upon a showing of good cause in
16 connection with a shelter hearing or petition for
17 dependency; amending ss. 39.507 and 39.521, F.S.;
18 authorizing the court to order specified persons to submit
19 to a substance abuse assessment as part of an adjudicatory
20 order or pursuant to a disposition hearing; requiring a
21 showing of good cause; authorizing the court to require
22 participation in a treatment-based drug court program;
23 authorizing the court to impose sanctions for

Page 1 of 32

HB 177 CS

2005
CS

24 noncompliance; amending s. 39.701, F.S.; authorizing the
25 court to extend the time for completing a case plan during
26 judicial review, based upon participation in a treatment-
27 based drug court program; amending s. 397.334, F.S.;
28 revising legislative intent with respect to treatment-
29 based drug court programs to reflect participation by
30 community support agencies, the Department of Education,
31 and other individuals; including postadjudicatory programs
32 as part of treatment-based drug court programs; providing
33 requirements and sanctions, including clinical placement
34 or incarceration, for the coordinated strategy developed
35 by the drug court team to encourage participant
36 compliance; requiring each judicial circuit to establish a
37 position for a coordinator of the treatment-based drug
38 court program, subject to annual appropriation by the
39 Legislature; authorizing the chief judge of each judicial
40 circuit to appoint an advisory committee for the
41 treatment-based drug court program; providing for
42 membership of the committee; revising language with
43 respect to an annual report; amending s. 910.035, F.S.;
44 revising language with respect to conditions for the
45 transfer of a case in the drug court treatment program to
46 a county other than that in which the charge arose;
47 amending ss. 948.08, 948.16, and 985.306, F.S., relating
48 to felony, misdemeanor, and delinquency pretrial substance
49 abuse education and treatment intervention programs;
50 providing requirements and sanctions, including clinical
51 placement or incarceration, for the coordinated strategy

Page 2 of 32

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0177-02-c2

HB 177 CS

2005
CS

developed by the drug court team to encourage participant compliance and removing provisions authorizing appointment of an advisory committee, to conform to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.--

(4) SUBSTANCE ABUSE SERVICES.--

(a) The Legislature recognizes that substance abuse is a primary cause of the dramatic rise in cases of child abuse and neglect, immeasurably increases the complexity of cases in the dependency system, severely compromises or destroys the ability of parents to provide a safe and nurturing home for children, and severely confounds the dependency system's ability to protect children. The Legislature also recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost effective. The Legislature further recognizes that treatment-based drug court program models that integrate judicial supervision, treatment, accountability, sanctions, and community support greatly increase the effectiveness of substance abuse treatment and reduce the number of cases of child abuse and neglect.

HB 177 CS

2005
CS

78 (b) The substance abuse treatment and family safety
79 programs of the Department of Children and Family Services have
80 identified the following goals for the state:

81 1. To ensure the safety of children.

82 2. To prevent and remediate the consequences of substance
83 abuse on families involved in protective supervision or foster
84 care and reduce substance abuse, including alcohol abuse, for
85 families who are at risk of being involved in protective
86 supervision or foster care.

87 3. To expedite permanency for children and reunify
88 healthy, intact families, when appropriate.

89 4. To support families in recovery.

90 (c) The Legislature finds that children in the care of the
91 state's dependency system need appropriate health care services,
92 that the impact of substance abuse on health indicates the need
93 for health care services to include substance abuse services to
94 children and parents where appropriate, and that it is in the
95 state's best interest that such children be provided the
96 services they need to enable them to become and remain
97 independent of state care. In order to provide these services,
98 the state's dependency system must have the ability to identify
99 and provide appropriate intervention and treatment for children
100 with personal or family-related substance abuse problems.

101 (d) It is the intent of the Legislature to encourage the
102 court to support the drug court program model by assessing
103 parents and children to identify and address substance abuse
104 problems as the court deems appropriate at every stage of the
105 dependency process. Participation in treatment, including a

HB 177 CS

2005
CS

treatment-based drug court program, may be required by the court following adjudication. This subsection does not prevent a child's parents and, when appropriate, the legal custodian from voluntarily entering treatment, including a treatment-based drug court program, at the earliest stage of the process. Nothing in this subsection precludes a court from ordering drug testing where substance abuse is suspected to determine the safety of the placement of a child with a caretaker.

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used utilized as resources permit.

(f) It is the intent of the Legislature to encourage the Department of Children and Family Services, in conjunction with community agencies; treatment-based facilities; facilities dedicated to child welfare, child development, and mental health services; the Department of Health; other similar agencies; local governments; law enforcement agencies; and other interested public or private sources to support the drug court program model. Participation in the treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but enables these agencies to better meet their needs through shared responsibility and resources.

Section 2. Subsections (11) through (16) of section 39.402, Florida Statutes, are renumbered as subsections (12)

HB177CS

2005
CS

134 through (17), respectively, and a new subsection (11) is added
135 to said section to read:

136 39.402 Placement in a shelter.--

137 (11) At the shelter hearing, the court may order the child
138 or a person who has custody or is requesting custody of the
139 child to submit to a substance abuse assessment or evaluation.
140 The assessment or evaluation must be administered by a qualified
141 professional, as defined in s. 397.311. The order may be made
142 only upon good cause shown.

143 Section 3. Section 39.407, Florida Statutes, is amended to
144 read:

145 39.407 Medical, psychiatric, and psychological examination
146 and treatment of child; physical, ~~or~~ mental, or substance abuse
147 examination of parent or person with or requesting child custody
148 of child.--

149 (1) When any child is removed from the home and maintained
150 in an out-of-home placement, the department is authorized to
151 have a medical screening performed on the child without
152 authorization from the court and without consent from a parent
153 or legal custodian. Such medical screening shall be performed by
154 a licensed health care professional and shall be to examine the
155 child for injury, illness, and communicable diseases and to
156 determine the need for immunization. The department shall by
157 rule establish the invasiveness of the medical procedures
158 authorized to be performed under this subsection. In no case
159 does this subsection authorize the department to consent to
160 medical treatment for such children.

HB 177 CS

2005
CS

161 (2) When the department has performed the medical
162 screening authorized by subsection (1), or when it is otherwise
163 determined by a licensed health care professional that a child
164 who is in an out-of-home placement, but who has not been
165 committed to the department, is in need of medical treatment,
166 including the need for immunization, consent for medical
167 treatment shall be obtained in the following manner:

168 (a)1. Consent to medical treatment shall be obtained from
169 a parent or legal custodian of the child; or

170 2. A court order for such treatment shall be obtained.

171 (b) If a parent or legal custodian of the child is
172 unavailable and his or her whereabouts cannot be reasonably
173 ascertained, and it is after normal working hours so that a
174 court order cannot reasonably be obtained, an authorized agent
175 of the department shall have the authority to consent to
176 necessary medical treatment, including immunization, for the
177 child. The authority of the department to consent to medical
178 treatment in this circumstance shall be limited to the time
179 reasonably necessary to obtain court authorization.

180 (c) If a parent or legal custodian of the child is
181 available but refuses to consent to the necessary treatment,
182 including immunization, a court order shall be required unless
183 the situation meets the definition of an emergency in s. 743.064
184 or the treatment needed is related to suspected abuse,
185 abandonment, or neglect of the child by a parent, caregiver, or
186 legal custodian. In such case, the department shall have the
187 authority to consent to necessary medical treatment. This

HB177CS

2005
CS

188 authority is limited to the time reasonably necessary to obtain
189 court authorization.

190
191 In no case shall the department consent to sterilization,
192 abortion, or termination of life support.

193 (3)(a) A judge may order a child in an out-of-home
194 placement to be examined by a licensed health care professional.

195 (b) The judge may also order such child to be evaluated by
196 a psychiatrist or a psychologist or, if a developmental
197 disability is suspected or alleged, by the developmental
198 disability diagnostic and evaluation team of the department. If
199 it is necessary to place a child in a residential facility for
200 such evaluation, the criteria and procedure established in s.
201 394.463(2) or chapter 393 shall be used, whichever is
202 applicable.

203 (c) The judge may also order such child to be evaluated by
204 a district school board educational needs assessment team. The
205 educational needs assessment provided by the district school
206 board educational needs assessment team shall include, but not
207 be limited to, reports of intelligence and achievement tests,
208 screening for learning disabilities and other handicaps, and
209 screening for the need for alternative education as defined in
210 s. 1001.42.

211 (4) A judge may order a child in an out-of-home placement
212 to be treated by a licensed health care professional based on
213 evidence that the child should receive treatment. The judge may
214 also order such child to receive mental health or developmental
215 disabilities services from a psychiatrist, psychologist, or

Page 8 of 32

HB177CS

2005
CS

216 other appropriate service provider. Except as provided in
217 subsection (5), if it is necessary to place the child in a
218 residential facility for such services, the procedures and
219 criteria established in s. 394.467 or chapter 393 shall be used,
220 whichever is applicable. A child may be provided developmental
221 disabilities or mental health services in emergency situations,
222 pursuant to the procedures and criteria contained in s.
223 394.463(1) or chapter 393, whichever is applicable.

224 (5) Children who are in the legal custody of the
225 department may be placed by the department, without prior
226 approval of the court, in a residential treatment center
227 licensed under s. 394.875 or a hospital licensed under chapter
228 395 for residential mental health treatment only pursuant to
229 this section or may be placed by the court in accordance with an
230 order of involuntary examination or involuntary placement
231 entered pursuant to s. 394.463 or s. 394.467. All children
232 placed in a residential treatment program under this subsection
233 must have a guardian ad litem appointed.

234 (a) As used in this subsection, the term:

235 1. "Residential treatment" means placement for
236 observation, diagnosis, or treatment of an emotional disturbance
237 in a residential treatment center licensed under s. 394.875 or a
238 hospital licensed under chapter 395.

239 2. "Least restrictive alternative" means the treatment and
240 conditions of treatment that, separately and in combination, are
241 no more intrusive or restrictive of freedom than reasonably
242 necessary to achieve a substantial therapeutic benefit or to
243 protect the child or adolescent or others from physical injury.

HB 177 CS

2005
CS

244 3. "Suitable for residential treatment" or "suitability"
245 means a determination concerning a child or adolescent with an
246 emotional disturbance as defined in s. 394.492(5) or a serious
247 emotional disturbance as defined in s. 394.492(6) that each of
248 the following criteria is met:

249 a. The child requires residential treatment.

250 b. The child is in need of a residential treatment program
251 and is expected to benefit from mental health treatment.

252 c. An appropriate, less restrictive alternative to
253 residential treatment is unavailable.

254 (b) Whenever the department believes that a child in its
255 legal custody is emotionally disturbed and may need residential
256 treatment, an examination and suitability assessment must be
257 conducted by a qualified evaluator who is appointed by the
258 Agency for Health Care Administration. This suitability
259 assessment must be completed before the placement of the child
260 in a residential treatment center for emotionally disturbed
261 children and adolescents or a hospital. The qualified evaluator
262 must be a psychiatrist or a psychologist licensed in Florida who
263 has at least 3 years of experience in the diagnosis and
264 treatment of serious emotional disturbances in children and
265 adolescents and who has no actual or perceived conflict of
266 interest with any inpatient facility or residential treatment
267 center or program.

268 (c) Before a child is admitted under this subsection, the
269 child shall be assessed for suitability for residential
270 treatment by a qualified evaluator who has conducted a personal

HB177CS

2005
CS

271 examination and assessment of the child and has made written
272 findings that:

273 1. The child appears to have an emotional disturbance
274 serious enough to require residential treatment and is
275 reasonably likely to benefit from the treatment.

276 2. The child has been provided with a clinically
277 appropriate explanation of the nature and purpose of the
278 treatment.

279 3. All available modalities of treatment less restrictive
280 than residential treatment have been considered, and a less
281 restrictive alternative that would offer comparable benefits to
282 the child is unavailable.

283
284 A copy of the written findings of the evaluation and suitability
285 assessment must be provided to the department and to the
286 guardian ad litem, who shall have the opportunity to discuss the
287 findings with the evaluator.

288 (d) Immediately upon placing a child in a residential
289 treatment program under this section, the department must notify
290 the guardian ad litem and the court having jurisdiction over the
291 child and must provide the guardian ad litem and the court with
292 a copy of the assessment by the qualified evaluator.

293 (e) Within 10 days after the admission of a child to a
294 residential treatment program, the director of the residential
295 treatment program or the director's designee must ensure that an
296 individualized plan of treatment has been prepared by the
297 program and has been explained to the child, to the department,
298 and to the guardian ad litem, and submitted to the department.

HB 177 CS

2005
CS

299 The child must be involved in the preparation of the plan to the
300 maximum feasible extent consistent with his or her ability to
301 understand and participate, and the guardian ad litem and the
302 child's foster parents must be involved to the maximum extent
303 consistent with the child's treatment needs. The plan must
304 include a preliminary plan for residential treatment and
305 aftercare upon completion of residential treatment. The plan
306 must include specific behavioral and emotional goals against
307 which the success of the residential treatment may be measured.
308 A copy of the plan must be provided to the child, to the
309 guardian ad litem, and to the department.

310 (f) Within 30 days after admission, the residential
311 treatment program must review the appropriateness and
312 suitability of the child's placement in the program. The
313 residential treatment program must determine whether the child
314 is receiving benefit toward the treatment goals and whether the
315 child could be treated in a less restrictive treatment program.
316 The residential treatment program shall prepare a written report
317 of its findings and submit the report to the guardian ad litem
318 and to the department. The department must submit the report to
319 the court. The report must include a discharge plan for the
320 child. The residential treatment program must continue to
321 evaluate the child's treatment progress every 30 days thereafter
322 and must include its findings in a written report submitted to
323 the department. The department may not reimburse a facility
324 until the facility has submitted every written report that is
325 due.

HB 177 CS

2005
CS

326 (g)1. The department must submit, at the beginning of each
327 month, to the court having jurisdiction over the child, a
328 written report regarding the child's progress toward achieving
329 the goals specified in the individualized plan of treatment.

330 2. The court must conduct a hearing to review the status
331 of the child's residential treatment plan no later than 3 months
332 after the child's admission to the residential treatment
333 program. An independent review of the child's progress toward
334 achieving the goals and objectives of the treatment plan must be
335 completed by a qualified evaluator and submitted to the court
336 before its 3-month review.

337 3. For any child in residential treatment at the time a
338 judicial review is held pursuant to s. 39.701, the child's
339 continued placement in residential treatment must be a subject
340 of the judicial review.

341 4. If at any time the court determines that the child is
342 not suitable for continued residential treatment, the court
343 shall order the department to place the child in the least
344 restrictive setting that is best suited to meet his or her
345 needs.

346 (h) After the initial 3-month review, the court must
347 conduct a review of the child's residential treatment plan every
348 90 days.

349 (i) The department must adopt rules for implementing
350 timeframes for the completion of suitability assessments by
351 qualified evaluators and a procedure that includes timeframes
352 for completing the 3-month independent review by the qualified
353 evaluators of the child's progress toward achieving the goals

HB 177 CS

2005
CS

and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

(6) When a child is in an out-of-home placement, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, legal custodian, or the child to consent to examination or treatment for the child.

(8) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(9) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(10) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically

HB177 CS

2005
CS

381 necessary treatment to protect or preserve the life of the
382 child.

383 (11) For the purpose of obtaining an evaluation or
384 examination, or receiving treatment as authorized pursuant to
385 this section, no child alleged to be or found to be dependent
386 shall be placed in a detention home or other program used
387 primarily for the care and custody of children alleged or found
388 to have committed delinquent acts.

389 (12) The parents or legal custodian of a child in an out-
390 of-home placement remain financially responsible for the cost of
391 medical treatment provided to the child even if either one or
392 both of the parents or if the legal custodian did not consent to
393 the medical treatment. After a hearing, the court may order the
394 parents or legal custodian, if found able to do so, to reimburse
395 the department or other provider of medical services for
396 treatment provided.

397 (13) Nothing in this section alters the authority of the
398 department to consent to medical treatment for a dependent child
399 when the child has been committed to the department and the
400 department has become the legal custodian of the child.

401 (14) At any time after the filing of a shelter petition or
402 petition for dependency, when the mental or physical condition,
403 including the blood group, of a parent, caregiver, legal
404 custodian, or other person who has custody or is requesting
405 custody of a child is in controversy, the court may order the
406 person to submit to a physical or mental examination by a
407 qualified professional. The order may be made only upon good

HB 177 CS

2005
CS

408 cause shown and pursuant to notice and procedures as set forth
409 by the Florida Rules of Juvenile Procedure.

410 (15) At any time after a shelter petition or petition for
411 dependency is filed, the court may order a child or a person who
412 has custody or is requesting custody of the child, if it has not
413 already done so, to submit to a substance abuse assessment and
414 evaluation. The assessment or evaluation must be administered by
415 a qualified professional, as defined in s. 397.311. The order
416 may be made only upon good cause shown.

417 Section 4. Subsection (9) is added to section 39.507,
418 Florida Statutes, to read:

419 39.507 Adjudicatory hearings; orders of adjudication.--

420 (9) The court may order a child or a person who has
421 custody or is requesting custody of the child, if it has not
422 already done so, to submit to a substance abuse assessment or
423 evaluation. The assessment or evaluation must be administered by
424 a qualified professional, as defined in s. 397.311. The court
425 may also require such person to participate in and comply with
426 treatment and services identified as necessary, including, when
427 appropriate and available, participation in and compliance with
428 a treatment-based drug court program. The court, including the
429 treatment-based drug court program, shall oversee the progress
430 and compliance with treatment by the child or a person who has
431 custody or is requesting custody of the child and shall impose
432 appropriate available sanctions for noncompliance upon the child
433 or a person who has custody or is requesting custody of the
434 child. Any order entered under this subsection may be made only
435 upon good cause shown.

HB177CS

2005
CS

Section 5. Paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.--

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child, to participate in treatment and services identified as necessary. The court may require a child or a person who has custody or is requesting custody of the child to submit to a substance abuse assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including participation in and compliance with a treatment-based drug court program, when appropriate and if available. The court, including the treatment-based drug court program, shall oversee the progress and compliance with treatment by the child or a person who has custody or is requesting custody of the child and shall impose

HB177 CS

2005
CS

appropriate available sanctions for noncompliance upon the child
or a person who has custody or is requesting custody of the
child. Any order entered under this subparagraph may be made
only upon good cause shown.

2. Require, if the court deems necessary, the parties to
participate in dependency mediation.

3. Require placement of the child either under the
protective supervision of an authorized agent of the department
in the home of one or both of the child's parents or in the home
of a relative of the child or another adult approved by the
court, or in the custody of the department. Protective
supervision continues until the court terminates it or until the
child reaches the age of 18, whichever date is first. Protective
supervision shall be terminated by the court whenever the court
determines that permanency has been achieved for the child,
whether with a parent, another relative, or a legal custodian,
and that protective supervision is no longer needed. The
termination of supervision may be with or without retaining
jurisdiction, at the court's discretion, and shall in either
case be considered a permanency option for the child. The order
terminating supervision by the department shall set forth the
powers of the custodian of the child and shall include the
powers ordinarily granted to a guardian of the person of a minor
unless otherwise specified. Upon the court's termination of
supervision by the department, no further judicial reviews are
required, so long as permanency has been established for the
child.

HB177CS

2005
CS

Section 6. Paragraph (d) of subsection (9) of section 39.701, Florida Statutes, is amended to read:

39.701 Judicial review.--

(9)

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, which, in addition to other modifications, may include a requirement that the parent, foster parent, or legal custodian participate in a treatment-based drug court program, based upon information provided by the social service agency, and the guardian ad litem, if one has been appointed, the parent or parents, and the foster parents or legal custodian, and any other competent information on record demonstrating the need for the amendment. If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation. Modifications to the plan must be handled as prescribed in s. 39.601. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter.

Section 7. Section 397.334, Florida Statutes, is amended to read:

397.334 Treatment-based drug court programs.--

(1) Each county may fund a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment services ~~plans~~

HB 177 CS

2005
CS

519 tailored to the individual needs of the participant. It is the
520 intent of the Legislature to encourage the Department of
521 Corrections, the Department of Children and Family Services, the
522 Department of Juvenile Justice, the Department of Health, the
523 Department of Law Enforcement, the Department of Education, and
524 such ~~other~~ agencies, local governments, law enforcement
525 agencies, ~~and~~ other interested public or private sources, and
526 individuals to support the creation and establishment of these
527 problem-solving court programs. Participation in the treatment-
528 based drug court programs does not divest any public or private
529 agency of its responsibility for a child or adult, but enables
530 ~~allows~~ these agencies to better meet their needs through shared
531 responsibility and resources.

532 (2) The treatment-based drug court programs shall include
533 therapeutic jurisprudence principles and adhere to the following
534 10 key components, recognized by the Drug Courts Program Office
535 of the Office of Justice Programs of the United States
536 Department of Justice and adopted by the Florida Supreme Court
537 Treatment-Based Drug Court Steering Committee:

538 (a) Drug court programs integrate alcohol and other drug
539 treatment services with justice system case processing.

540 (b) Using a nonadversarial approach, prosecution and
541 defense counsel promote public safety while protecting
542 participants' due process rights.

543 (c) Eligible participants are identified early and
544 promptly placed in the drug court program.

HB177CS

2005
CS

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

(f) A coordinated strategy governs drug court program responses to participants' compliance.

(g) Ongoing judicial interaction with each drug court program participant is essential.

(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.

(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

(3) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306, postadjudicatory programs, and the monitoring of sentenced offenders through a treatment-based drug court program. Supervision may also be provided for offenders who transfer from jail or a prison-based treatment program into the community. While enrolled in any pretrial intervention program, the participant is subject to a coordinated strategy developed by the drug court team under paragraph (2)(f). Each coordinated strategy must include a protocol of sanctions that may be imposed upon the participant. The protocol of sanctions

HB 177 CS

2005
CS

573 must include as available options placement in a secure licensed
574 clinical or jail-based treatment program or serving a period of
575 incarceration for noncompliance with program rules within the
576 time limits established for contempt of court. The coordinated
577 strategy must be provided in writing to the participant at the
578 time the participant enters into a pretrial drug court program.

579 (4) Contingent upon an annual appropriation by the
580 Legislature, each judicial circuit shall establish, at a
581 minimum, one coordinator position for the treatment-based drug
582 court program within the state courts system to coordinate the
583 responsibilities of the participating agencies and service
584 providers. Each coordinator shall provide direct support to the
585 treatment-based drug court program by providing coordination
586 between the multidisciplinary team and the judiciary, providing
587 case management, monitoring compliance of the participants in
588 the treatment-based drug court program with court requirements,
589 and providing program evaluation and accountability.

590 (5)(4)(a) The Florida Association of Drug Court ~~Program~~
591 Professionals is created. The membership of the association may
592 consist of treatment-based drug court program practitioners who
593 comprise the multidisciplinary treatment-based drug court
594 program team, including, but not limited to, judges, state
595 attorneys, defense counsel, ~~drug court~~ program coordinators,
596 probation officers, law enforcement officers, community
597 representatives, members of the academic community, and
598 treatment professionals. Membership in the association shall be
599 voluntary.

HB 177 CS

2005
CS

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of treatment-based drug court programs. The chair is responsible for providing on or before October 1 of each year the association's recommendations and an annual report to the appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~ committee or to the appropriate personnel of the Office of the State Courts Administrator, ~~and shall submit a report each year, on or before October 1, to the steering committee.~~

~~(6)(5)~~ If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004. However, this does not preclude counties from using treatment and other service dollars provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

(7) The chief judge of each judicial circuit may appoint an advisory committee for the treatment-based drug court program. The committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the treatment-based drug court program coordinators; community representatives; treatment representatives; and any other persons the chair finds are appropriate.

HB177 CS

2005
CS

628 Section 8. Paragraphs (b) and (e) of subsection (5) of
629 section 910.035, Florida Statutes, are amended to read:

630 910.035 Transfer from county for plea and sentence.--

631 (5) Any person eligible for participation in a drug court
632 treatment program pursuant to s. 948.08(6) may be eligible to
633 have the case transferred to a county other than that in which
634 the charge arose if the drug court program agrees and if the
635 following conditions are met:

636 (b) If approval for transfer is received from all parties,
637 the trial court shall accept a plea of nolo contendere and enter
638 a transfer order directing the clerk to transfer the case to the
639 county which has accepted the defendant into its drug court
640 program.

641 (e) Upon successful completion of the drug court program,
642 the jurisdiction to which the case has been transferred shall
643 dispose of the case pursuant to s. 948.08(6). If the defendant
644 does not complete the drug court program successfully, the
645 jurisdiction to which the case has been transferred shall
646 dispose of the case within the guidelines of the Criminal
647 Punishment Code ~~case shall be prosecuted as determined by the~~
648 ~~state attorneys of the sending and receiving counties.~~

649 Section 9. Subsections (6), (7), and (8) of section
650 948.08, Florida Statutes, are amended to read:

651 948.08 Pretrial intervention program.--

652 (6)(a) Notwithstanding any provision of this section, a
653 person who is charged with a felony of the second or third
654 degree for purchase or possession of a controlled substance
655 under chapter 893, prostitution, tampering with evidence,

HB177CS

2005
CS

solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence; and who has not previously been convicted of a felony nor been admitted to a felony pretrial program referred to in this section is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(2). The coordinated strategy must include a protocol of

HB 177 CS

2005
CS

sanctions that may be imposed upon the participant. The protocol of sanctions must include as available options placement in a secure licensed clinical or jail-based treatment program or serving a period of incarceration for noncompliance with program rules within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant at the time the participant enters into a pretrial drug court program.

~~(c)(b)~~ At the end of the pretrial intervention period, the court shall consider the recommendation of the administrator pursuant to subsection (5) and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program.

~~(e)1.~~ If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include secure licensed clinical or jail-based treatment programs, or order that the charges revert to normal channels for prosecution.

~~2.~~ The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(d) Any entity, whether public or private, providing a pretrial substance abuse education and treatment intervention program under this subsection must contract with the county or appropriate governmental entity, and the terms of the contract

HB 177 CS

2005
CS

711 must include, but need not be limited to, the requirements
712 established for private entities under s. 948.15(3).

713 ~~(7) The chief judge in each circuit may appoint an~~
714 ~~advisory committee for the pretrial intervention program~~
715 ~~composed of the chief judge or his or her designee, who shall~~
716 ~~serve as chair; the state attorney, the public defender, and the~~
717 ~~program administrator, or their designees; and such other~~
718 ~~persons as the chair deems appropriate. The advisory committee~~
719 ~~may not designate any defendant eligible for a pretrial~~
720 ~~intervention program for any offense that is not listed under~~
721 ~~paragraph (6)(a) without the state attorney's recommendation and~~
722 ~~approval. The committee may also include persons representing~~
723 ~~any other agencies to which persons released to the pretrial~~
724 ~~intervention program may be referred.~~

725 (7)(8) The department may contract for the services and
726 facilities necessary to operate pretrial intervention programs.

727 Section 10. Section 948.16, Florida Statutes, is amended
728 to read:

729 948.16 Misdemeanor pretrial substance abuse education and
730 treatment intervention program.--

731 (1)(a) A person who is charged with a misdemeanor for
732 possession of a controlled substance or drug paraphernalia under
733 chapter 893, and who has not previously been convicted of a
734 felony nor been admitted to a pretrial program, is eligible for
735 admission into a misdemeanor pretrial substance abuse education
736 and treatment intervention program approved by the chief judge
737 of the circuit, for a period based on the program requirements
738 and the treatment plan for the offender, upon motion of either

HB177 CS

2005
CS

739 party or the court's own motion, except, if the state attorney
740 believes the facts and circumstances of the case suggest the
741 defendant is involved in dealing and selling controlled
742 substances, the court shall hold a preadmission hearing. If the
743 state attorney establishes, by a preponderance of the evidence
744 at such hearing, that the defendant was involved in dealing or
745 selling controlled substances, the court shall deny the
746 defendant's admission into the pretrial intervention program.

747 (b) While enrolled in a pretrial intervention program
748 authorized by this section, the participant is subject to a
749 coordinated strategy developed by a drug court team under s.
750 397.334(2). The coordinated strategy must include a protocol of
751 sanctions that may be imposed upon the participant. The protocol
752 of sanctions must include as available options placement in a
753 secure licensed clinical or jail-based treatment program or
754 serving a period of incarceration for noncompliance with program
755 rules within the time limits established for contempt of court.
756 The coordinated strategy must be provided in writing to the
757 participant at the time the participant enters into a pretrial
758 drug court program.

759 (2) At the end of the pretrial intervention period, the
760 court shall consider the recommendation of the treatment program
761 and the recommendation of the state attorney as to disposition
762 of the pending charges. The court shall determine, by written
763 finding, whether the defendant successfully completed the
764 pretrial intervention program.

765 ~~(a)~~ If the court finds that the defendant has not
766 successfully completed the pretrial intervention program, the

HB 177 CS

2005
CS

767 court may order the person to continue in education and
768 treatment or return the charges to the criminal docket for
769 prosecution.

770 ~~(b)~~ The court shall dismiss the charges upon finding that
771 the defendant has successfully completed the pretrial
772 intervention program.

773 (3) Any public or private entity providing a pretrial
774 substance abuse education and treatment program under this
775 section shall contract with the county or appropriate
776 governmental entity. The terms of the contract shall include,
777 but not be limited to, the requirements established for private
778 entities under s. 948.15(3).

779 Section 11. Section 985.306, Florida Statutes, is amended
780 to read:

781 985.306 Delinquency pretrial intervention program.--

782 (1)~~(a)~~ Notwithstanding any provision of law to the
783 contrary, a child who is charged ~~under chapter 893~~ with a felony
784 of the second or third degree for purchase or possession of a
785 controlled substance under chapter 893; tampering with evidence;
786 solicitation for purchase of a controlled substance; or
787 obtaining a prescription by fraud, and who has not previously
788 been adjudicated for a felony ~~nor been admitted to a delinquency~~
789 ~~pretrial intervention program under this section~~, is eligible
790 for admission into a delinquency pretrial substance abuse
791 education and treatment intervention program approved by the
792 chief judge or alternative sanctions coordinator of the circuit
793 to the extent that funded programs are available, for a period
794 based on the program requirements and the treatment services

HB 177 CS

2005
CS

795 that are suitable for the offender ~~of not less than 1 year in~~
796 ~~duration~~, upon motion of either party or the court's own motion.
797 If the state attorney believes that the facts and circumstances
798 of the case suggest the child's involvement in the dealing and
799 selling of controlled substances, the court shall hold a
800 preadmission hearing. If the state attorney establishes by a
801 preponderance of the evidence at such hearing that the child was
802 involved in the dealing and selling of controlled substances,
803 the court shall deny the child's admission into a delinquency
804 pretrial intervention program.

805 (2) While enrolled in a delinquency pretrial intervention
806 program authorized by this section, a child is subject to a
807 coordinated strategy developed by a drug court team under s.
808 397.334(2). The coordinated strategy must include a protocol of
809 sanctions that may be imposed upon the child. The protocol of
810 sanctions must include as available options placement in a
811 secure licensed clinical facility or placement in a secure
812 detention facility under s. 985.216 for noncompliance with
813 program rules. The coordinated strategy must be provided in
814 writing to the child at the time the child enters the pretrial
815 drug court program.

816 (3) ~~(b)~~ At the end of the delinquency pretrial intervention
817 period, the court shall consider the recommendation of the state
818 attorney and the program administrator as to disposition of the
819 pending charges. The court shall determine, by written finding,
820 whether the child has successfully completed the delinquency
821 pretrial intervention program.

HB 177 CS

2005
CS

822 ~~(e)1.~~ If the court finds that the child has not
823 successfully completed the delinquency pretrial intervention
824 program, the court may order the child to continue in an
825 education, treatment, or urine monitoring program if resources
826 and funding are available or order that the charges revert to
827 normal channels for prosecution.

828 ~~2.~~ The court may dismiss the charges upon a finding that
829 the child has successfully completed the delinquency pretrial
830 intervention program.

831 (4)~~(d)~~ Any entity, whether public or private, providing
832 pretrial substance abuse education, treatment intervention, and
833 a urine monitoring program under this section must contract with
834 the county or appropriate governmental entity, and the terms of
835 the contract must include, but need not be limited to, the
836 requirements established for private entities under s.
837 948.15(3). It is the intent of the Legislature that public or
838 private entities providing substance abuse education and
839 treatment intervention programs involve the active participation
840 of parents, schools, churches, businesses, law enforcement
841 agencies, and the department or its contract providers.

842 ~~(2) The chief judge in each circuit may appoint an~~
843 ~~advisory committee for the delinquency pretrial intervention~~
844 ~~program composed of the chief judge or designee, who shall serve~~
845 ~~as chair; the state attorney, the public defender, and the~~
846 ~~program administrator, or their designees; and such other~~
847 ~~persons as the chair deems appropriate. The committee may also~~
848 ~~include persons representing any other agencies to which~~

HB 177 CS

2005
CS

849 | ~~children released to the delinquency pretrial intervention~~
850 | ~~program may be referred.~~

851 | Section 12. This act shall take effect upon becoming a
852 | law.